

Before the
FEDERAL COMMUNICATIONS COMMISSION

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JUN 16 1994

Re: MM Docket No. 94-34

FCC MAIL ROOM

Ham Broadcasting Co., Inc., operator of WKDZ AM/FM, Cadiz, Ky, wishes to respond to the Commission's Notice of Inquiry seeking comment on its EEO rules, procedures, policies, standards, and guidelines.

1. To what extent can the Commission's EEO policies better accommodate the problems faced by "small market broadcasters" in attracting minority employees?

RESPONSE: We are located in a city of approximately 2,000 people in a county of approximately 10,000. We have a staff of four full time and one part time persons. Under the current rules, with less than five full time staffers, we are not covered by the Commission's EEO rules. Thus by staying under five full time staff members, small market stations maintain their exemption from the Commission's policies. One effect of this is that we do not have to do all of the paperwork which would kick in if we had that fifth employee, but it also diminishes our incentive to create additional jobs which might be filled by minority employees. Thus, the commission's current policy is counter-productive. In fact, it is preventing the very thing it is designed to accomplish; increased minority employment. At the same time, a station's level of service to the community could be diminished because four people can only do so much, but the current EEO burdens are so ominous that adding an additional full time person or two creates more problems than it solves. Certainly the Commission could reduce the minimum from four to zero, but that would create more problems both for the Commission and for licensee than it would solve. In many small communities, it would be literally impossible to maintain any sort of minority balance among only four or less people.

Under the current rules, the record keeping requirements are horrendous, especially if station operators attempt to fully comply. In a small market station, when somebody quits, you have only two weeks (at best) to fill the position, less if the person walks off the job or is discharged. Even if you mailed the job opening information to all of your recruitment sources the day you got the employee's notice, by the time they get it, post it, and then you get applications in return, the two weeks is already up and you have a big hole in your operation. Additionally, there are frequently other staff members that want the job and if you don't give it to them, especially if you bring in someone from the outside, the chances are good of losing one or more of your other employees, as they won't see a chance for advancement and they will feel that they have been mistreated. In small

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communities, that alone is cause for big public relations headaches. In small markets where everybody in town knows everybody else and is kin to most of them, the employee who didn't get the job has the embarrassment of explaining why, after all their dedication and years of service, they didn't get the job. This, too, takes its toll on existing employees. Many stations have one or more part time persons who have "paid their dues" by working nights and weekends in order to get that full time job if and when one ever opens up. This is where there is a real opportunity, especially for small market stations to integrate minority employees into the hiring process, by hiring minorities for their part time positions, then moving them into full time jobs when they become available. But under the Commission's current rules, even if you had part time minority employees ready to move up to a full time opening, we would still have to go through the process of notifying all of our sources, taking applications, interviewing applicants, etc.

What all of this does is exactly what we noted above; it discourages rather than encourages staff growth and the attendant job and service growth.

The commission should consider raising its employee limit before the EEO provisions take effect. A vast majority of small market stations employ less than 10 people full time, particularly since the advent of automation, and that would be a good threshold to consider, rather than the current five. All licensees know of the Commission's desires regarding EEO, and thus could operate their stations within their own parameters, and at the same time, have an opportunity to work minority employees into their operations in a manner that would not cause so much internal strife and also would eliminate the time consuming and expensive paperwork of EEO compliance that now begins with the fifth employee.

One additional consideration is that as the Commission keeps pressure on broadcasters to increase EEO hiring, the pool of applicants at the low end, i.e., the small markets, diminishes, thus making it even more difficult to recruit minority employees. Small market stations are the least able to afford intern or training programs. Since there is more opportunity for higher pay, advancement, and a better standard of living in the medium and larger markets, there is even less incentive for minority employees to seek full time jobs in small markets. Thus, even a small market station with under ten employees might have trouble recruiting and hiring minority employees, no matter how hard they try. But they still have the burden and expense of all of the record keeping and recruitment efforts. Thus, to raise the limit from five to ten or even to fifteen would greatly help small market broadcasters.

2. Should the Commission eliminate the current requirement that licenses report the race and gender of part-time employees in their Annual Employment Reports or should it seek more information concerning the recruitment and employment of such employees.

RESPONSE: Consistent with our response to the above question, we feel that part time employees are a good place to recruit minority employees in small markets, thus allowing them to move up into full time jobs when they are available. To have to continue to report the race and gender of those employees would help broadcasters to remember the necessity of hiring them for part time positions. To seek more information concerning the recruitment and employment of such employees would simply add another expensive and time consuming paperwork burden to the small market licensee.

3. Should the Commission extend to broadcasters the requirement imposed on cable operators that they "encourage minority and female entrepreneurs to conduct business with all parts of their operations"?

RESPONSE: As it applies to small market broadcasters, NO. It is really almost a moot point, as in small markets, for the most part, there are limited sources of all business service and supplies and those are the ones you must deal with. In large markets, there are more "minority and female" entrepreneurs with whom to conduct business.

4. Should the Commission tighten its review of licensee promotion and retention policies.

RESPONSE: Again, as it applies to small market broadcasters, NO. Much of those policies are dictated by the small size of the staff and of the community, and as we addressed in the answer to question 1, to bring in an outside employee, regardless of race or gender, to fill an opening in a small staff creates more problems for the operator and the remaining staff members than it solves for anyone.

5. Is there a way to decrease the burdens on licensees without decreasing the effectiveness of its EEO rules?

RESPONSE: This is also covered in our previous answers. As it applies to "small market broadcasters", raising the EEO reporting limit from five to ten or even fifteen would decrease the administrative burdens and would appear to increase rather than decrease the effectiveness of the Commission's EEO efforts. There's an old saying that you can catch more flies with honey than with vinegar. Licensees know that at renewal time, should they be challenged, regardless of their size, a good record on minority hiring will be very beneficial, whereas a bad record could hurt badly. If licensees are made aware of the advantages to them of minority hiring, rather than making it a burden forced down their throats, licensees will make a much better effort and can do it in their own way rather than having the government "help".

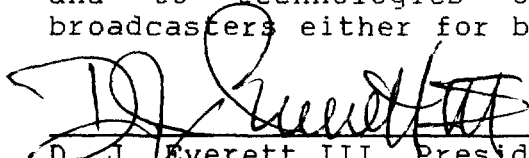
Another consideration, now that the Commission is going to charge broadcasters for their licenses, would be to allow either cash or tax incentives if certain EEO guidelines are met. Then the licensee can decide how much it is worth to him in dollars to raise his minority hiring and promotion to a level where it would become beneficial financially.

7. Should the Commission modify the information sought from renewal applicants (a) by requiring licensees either to report recruitment information only for full-time hires or to report that information separately for part-time and for full-time hires; (b) by requiring more information concerning the promotion of part-time employees to full time positions; (c) by requiring more detailed information about the recruitment efforts for each specific job opening?

RESPONSE: The information described in the question above is exactly what is breaking the backs of smaller broadcasters. In order to do this properly takes endless hours. Hours that most small market broadcasters, many of whom are "mom and pops" just don't have. Again, this is a good reason to raise the reporting limits and give licensees incentives to do a good job rather than punishing them if they do a bad job. When these reporting (and attendant recruiting) requirements are added to all of the other regulations that broadcasters must endeavor daily to follow, the regulatory burden on small market broadcasters is just emense. The Commission should be working to find ways to reduce, not increase, the regulatory burden on licensees.

9. Should the Commission extend its EEO rules and policies to emerging technologies, particularly where new entrants will compete with broadcasters and cable operators?

RESPONSE: The Commission should endeavor to use positive rather than negative means to encourage EEO compliance in all areas which it regulates. However, because of the expense of compliance, the same standards should apply to broadcasters and to technologies or businesses which compete with broadcasters either for business or employees.



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